

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

ROBERT HENRY NELSON, III

Petitioner,

v.

CIVIL ACTION NO. 5:14-cv-25050

JORDAN HOLLINGSWORTH¹,
Warden, FCI – Fort Dix,

Respondent.

MEMORANDUM OPINION AND ORDER

On August 25, 2014, the Petitioner, acting *pro se*, filed his *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 1). Subsequently, on October 20, 2014, the Respondent filed his *Response to Order to Show Cause* (Document 7) seeking dismissal of the Petitioner's *Application*.

By *Standing Order* (Document 4) entered on August 26, 2014, this action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On August 23, 2016, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 15) wherein it is recommended that this Court: 1) deny the Petitioner's *Application Under 28 U.S.C. § 2241 for Writ of*

¹The Respondent in this action was originally Joe Coakley, Warden - FCI Beckley. However, in view of the Petitioner's transfer to FCI – Fort Dix, where he is presently incarcerated, the Respondent has been substituted accordingly to reflect the warden of that facility.


Habeas Corpus By a Person in State or Federal Custody; 2) grant the Respondent's *Response to Order to Show Cause* seeking dismissal of the Petitioner's *Application*; and 3) dismiss this action with prejudice and remove it from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by September 9, 2016.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that: 1) the Petitioner's *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 1) be **DENIED**; 2) the Respondent's *Response to Order to Show Cause* seeking dismissal of the Petitioner's *Application* (Document 7) be **GRANTED**; and 3) this action be **DISMISSED WITH PREJUDICE** and **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Eifert, counsel of record, and any unrepresented party.

ENTER: September 14, 2016


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA